



**WORKERS' COMPENSATION COURT RULING MAY ULTIMATELY BENEFIT FLORIDA WORKERS BUT MAY ALSO RESULT IN HIGHER INSURANCE PREMIUMS FOR FLORIDA EMPLOYERS.**

In 2003 a large portion of my law practice was dedicated to workers' compensation litigation. I kept very busy representing employers and employees alike. That changed rather quickly in October of 2003 when the Florida legislature made widespread changes to Florida's workers compensation laws as enacted under [Chapter 440 of the Florida Statutes](#).

One of the most severe changes reduced the amount an attorney may earn for assisting an injured worker with a claim limited to a request for medical benefits. [Section 440.34 of the Florida Statutes](#) specifically limits fees for these types of claims to \$1,500.00. This amount is paid to an attorney only after he or she is able to convince a workers' compensation judge that an employer or workers' compensation carrier wrongfully denied medical benefits to an injured worker and that the medical benefits should be provided.

To put this into perspective, an attorney accepting responsibility for such a case would began work upon the risk that he or she may earn a fee of \$1,500.00 at some point in the future. The amount of time required for these cases vary greatly depending on the facts and circumstances of the case, but even the most basic workers' compensation matter may require an attorney a minimum of 30 or more hours to present the case from the beginning through a trial. Many cases take much longer. An attorney taking such a case would also advance the costs required to present the case.

When the 2003 legislative changes came about, many workers' compensation lawyers and law firms representing workers reduced the number of cases they would accept or stopped accepting workers' compensation matters altogether. Since then many injured workers have found it difficult or even impossible to find attorneys willing to help them. This is the argument that was presented by Officer Martha Miles from Edgewater, Florida.

After suffering an on-the-job-injury, Officer Miles looked long and hard to find an attorney without success and was ultimately forced to represent herself. She bravely presented her case to a workers' compensation judge and lost. Without giving up, she then appealed her case to Florida's First District Court of Appeal and won. Without going into the technical findings of the First District's ruling, it concludes that section 440.34 of the Florida Statutes relating to attorney's fees is unconstitutional. This ruling may be addressed a second time by the First District Court of Appeal upon rehearing. If the ruling stands as is, the Florida Supreme Court will also review the case as it is one that invalidates a state statute.

In conclusion, Officer Miles represented herself courageously and also shined a bright light on the needs of injured workers in Florida. Despite this ruling, the future of workers'

compensation law in Florida remains uncertain. Prior to 2013, Florida was known as one of the most expensive states for purchasing workers' compensation insurance. Should the viability of practicing workers' compensation law return to the way it was prior to 2013, the cost of workers' compensation coverage will undoubtedly increase. No business owner wants to pay more for workers' compensation insurance, but, by the same token, no business owner wants to see employees suffer when valid claims are denied. I do not expect to see the legislature enact sweeping changes like those of 2003, but I do expect to see changes in light of Officer Martha Miles.

The full opinion resulting from the case presented by Officer Miles may be found at the following link. [Miles v. City of Edgewater Police Department.](#) Much of the information for this blog was also found in an article written by The Honorable David Langham, Deputy Chief Judge of Compensation Claims for the Florida Office of Judge of Compensation Claims and Department of Administrative Hearings. Judge Langham's article entitled "Fla. Stat 440.34 (Florida Attorney's Fees) Unconstitutional" is published at WorkersCompensation.com and can be found at the following [link](#).

If you or your business may require an attorney with knowledge in the area of Florida workers' compensation law please call Murphy & Ellis, PLLC at 904 342-6009.



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